

# EXHIBIT 25

**Part 4. Examining Process****Chapter 48. Engineering Program****Section 1. Overview of Engineering Program****4.48.1 Overview of Engineering Program**

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**4.48.1.1 (05-01-2006)****Introduction**

1. The primary objective of the IRS Engineering Program is to support the mission of the IRS. Engineers provide professional and accurate development of issues and efficient and effective resolutions to more significant and complex engineering and valuation issues. Engineers provide expertise to issues encountered in all types of tax returns. Engineers support all IRS organizations that examine tax returns and provide direct support to non-examination organizations, such as Appeals and Counsel. The Engineering Program is committed to providing trained, knowledgeable, and effective members to the examination team. The Engineering Program also has a key role in the Outside Expert Program.
2. The Engineering Program consists of a national Program Manager, Territory Managers, and Teams.
3. The Engineering Teams are located across the United States. See the Engineering Program web page (<http://lmsb.irs.gov/hq/fs/engineers/index.htm>) for a map of locations.
4. Valuations of assets owned and/or transferred by or between controlled taxpayers (within the meaning of Treasury Regulation section 1.482-1(i)(5)) may present substantive issues that are not addressed in these guidelines.

**4.48.1.2 (05-01-2006)****Areas of Expertise**

1. Engineering services are available in several areas of expertise, including advanced degrees, professional designations, and state certifications/licenses. The following list is not all inclusive:
  - Engineer
  - Forester
  - Geologist
  - Accountant – Valuation Specialist
  - Real Property Appraiser
  - Personal Property Appraiser
  - Business Valuation/Intangible Property Appraiser
2. Specific engineering disciplines include:
  - Industrial
  - General
  - Mining
  - Petroleum
3. All of the above specialists are hereafter referred to as Engineers.
4. The Engineering Program typically provides expertise on a specific industry or issue that may be present in several industries. Issues have included:
  - Depletion

- Depreciation
- Capital v. Expense
- Capital Gains
- Valuation Issues
- Tax Credits
- Other Technical Issues

**4.48.1.3 (05-01-2006)****Organization**

1. The National Engineering Program management consists of a Program Manager, Territory Managers, a Program Analyst, and Engineer Team Managers.
2. This section describes the roles and responsibilities of the management team.

**4.48.1.3.1 (05-01-2006)****National Engineering Program Manager**

1. The National Engineering Program Manager provides management oversight on all aspects of the Engineering Program, including budget and staffing.
2. The Engineering Program Manager ensures that the Program addresses:
  - Policy and legislative changes
  - Uniform and consistent treatment of issues
  - Timely and professional technical assistance
  - Trends and developing issues
3. Management of the Engineering Program includes:
  - Determining budget, staffing, and training
  - Developing measures to gauge and monitor Program effectiveness
  - Monitoring management information systems
  - Conducting Program visits to territories
  - Coordinating national projects
  - Developing and recommending referral criteria
  - Developing position descriptions
  - Maintaining a directory of Engineering personnel and related expertise
4. The Engineering Program Manager oversees design and delivery of Engineering Training. Training in the Engineering Program includes Continuing Professional Education (CPE), Recruit Training, and Outservice Training.
5. The Engineering Program Manager provides oversight by:
  - Issuing guidelines and procedures
  - Assisting territories in achieving uniform Program direction
  - Providing technical and administrative assistance when necessary
  - Resolving differences between territories
  - Resolving differences between Engineering and other divisions
  - Providing liaison between field and National functions
6. The Engineering Program Manager communicates directly with Engineering Territory Managers and Engineer Team Managers when necessary.
7. The Engineering Program Manager represents the Engineering Program to the Director of Field Specialists by:
  - Presenting support for staffing needs
  - Providing data to support budgetary requests and needs
  - Participating in Strategic Planning
  - Describing new tax issues that may impact the Engineering Program
  - Advocating training needs of all types
8. The Engineering Program Manager represents the Engineering Program to external stakeholders such as appraisal and valuation societies, associations of tax personnel, and other professional societies.

**4.48.1.3.2 (05-01-2006)****Engineering Program Territory Manager**

1. Territory Managers directly supervise Engineer Team Managers. The Territory Managers perform Operational Reviews of Engineer Team Managers.
2. Territory Managers ensure that appropriate resources are assigned to issues including resources in other Engineering Territories.
3. Territory Managers recommend policy changes and procedures to the Program Manager.
4. Territory Managers, the Program Analyst, and the Program Manager work as a team to insure that the Engineering Program functions efficiently and effectively. This team considers and recommends changes in policy or procedure to improve the overall effectiveness of the Engineering Program.
5. Territory Managers perform periodic workload reviews to provide current staffing needs to the Program Manager.
6. Territory Managers oversee travel, supplies, training, Outside Expert Program (IRM 4.46.3.9.11, Outside Experts), and other budgetary issues for their respective territories.
7. Territory Managers work with Industry Territory Managers to resolve differences as necessary.
8. Territory Managers participate in Engineering Program work groups and Program initiatives.
9. Territory Managers serve as Acting Program Manager when necessary.

**4.48.1.3.3 (05-01-2006)****Role of the Engineer Program Analyst**

1. The Engineer Program Analyst supports the Program Manager and Territory Managers to facilitate the implementation and completion of program objectives and initiatives.
2. The Engineer Program Analyst works with analysts from other Field Specialist Programs, with analysts in Field Specialist Headquarters, and with analysts from the several industries.

**4.48.1.3.4 (05-01-2006)****Role of the Engineer Team Manager**

1. The Engineer Team Manager is responsible for the overall management, operations, and quality of the work product of the Engineering Program at the examination team level. The Engineer Manager's responsibilities include:
  - Receiving, prioritizing, and timely processing all requests for Engineering services
  - Ensuring accurate and timely input of data on Program monitoring systems
  - Providing local support to the Outside Expert Program (IRM 4.46.3.9.11, Outside Experts)
  - Monitoring receipt of mandatory Engineering referrals (e.g., periodic review of Team work load databases)
  - Working with each Engineer (degree of involvement based on Manager's discretion) on case planning, issue development, and issue resolution
  - Reviewing and approving Forms 5701
  - Reviewing and approving all engineering and valuation reports as to form, content, and overall quality
  - Assisting in issue development when appropriate
  - Involving themselves in resolution of issues as needed
  - Recommending training and CPE needs
  - Addressing Employee Satisfaction issues
  - Conducting performance reviews and annual appraisals
  - Acting as Territory Manager as requested
2. With respect to CIC (Coordinating Industry Case) examinations, the Engineer Team Manager's involvement includes:
  - A. Review and approve Engineer's risk analysis and audit plan
  - B. Attend opening conferences of LMSB Team examinations, when appropriate
  - C. Assist Industry Team Manager in creating a team environment
  - D. Coordinate work scheduling and monitor progress of audit with Engineer, Team Coordinator, and Industry Team Manager
  - E. Assist in issue development as necessary
  - F. Attend status meetings as requested by the taxpayer, Engineer, or Industry Team Manager
  - G. Discuss issues with Engineer, Team Coordinator, and Industry Team Manager
  - H. Attempt to resolve issues by meeting with the taxpayer, Engineer, and Team Coordinator
  - I. Assist in issue resolution discussions with the Team Manager
  - J. Provide feedback on audit and LMSB team process
  - K. Participate in resolution of differences (IRM 4.46.3.7.2(6), Role and Responsibilities of Specialist Manager)
3. The Engineer Team Manager will ensure that all Engineering employees assigned to any CIC examination are familiar with the roles and responsibilities of the various team members as specified in IRM 4.46.3, Planning the Examination.
4. IRM 4.46.3, Planning the Examination provides specific procedures for preparation of the plan, development of issues, and issue resolution.
5. IRM 4.46.3, Planning the Examination addresses issues related to specific involvement in CIC examinations. Some of the responsibilities of the Engineer Team Manager include:

- A. Planning the Examination -- Participate with the Industry Team Manager in the initial survey establishing the broad scope, depth, and potential issues pertaining to the specialty area. If time does not permit personal involvement with the Industry Team Manager, the Engineer Team Manager should nevertheless participate and approve, in writing, the planned recommendations of the assigned Engineer.
- B. Monitoring the Examination - The Engineer Team Manager will monitor the progress of the examination by periodically having discussions with the Engineer. Because Engineers usually have several assignments, the Engineer Team Manager will establish the priority of work based on the status of case, significance of potential issues, etc., and advise the Industry Team Manager. The Engineer Team Manager will be available to discuss with the Industry Team Manager any technical matters or questions regarding the effectiveness of the examination procedures. The Engineer Team Manager will also make job-site visits to monitor the performance of the Engineer in selected cases. This activity should be coordinated with the Industry Team Manager.
- C. Closing the Examination - The Engineer Team Manager will participate with the Industry Team Manager and the Engineer in meetings with the taxpayer to discuss and resolve proposed issues, which are complex or have substantial tax or compliance impact. The Engineer Team Manager will review and approve the Engineer's report prior to submitting it to the Industry Team Manager. In selected cases, the Engineer Team Manager will participate with the Engineer in the Post-Audit Management Critique (IRM 4.46.7, Post Examination Activities).

**4.48.1.4 (05-01-2006)**  
**Engineering Assistance**

1. Engineers receive referrals from LMSB and other organizations:

- LMSB Coordinated Industry Cases (CIC)
- LMSB Industry Cases (IC)
- SB/SE
- W&I
- TE/GE
- Appeals
- IRS Counsel
- IRS Criminal Investigation
- U. S. Department of Justice

2. The Engineer is a member of the examination team. The roles and responsibilities of the Engineer as a CIC or IC team member are defined in IRM 4.46, LMSB Guide For Quality Examinations. The Engineer also works with other referring agents or Estate and Gift Tax Attorneys to develop and present issues to the taxpayer. The Engineer's Manager will assist the examination team if the team believes that an outside expert would be useful to the examination. See IRM 4.48.1.9 for a discussion of the Engineer's work product.

3. When providing assistance to Appeals, Counsel, Criminal Investigation, the U. S. Department of Justice, or other non-examination referrals, the Engineer will provide expert advice, an expert report, and expert testimony as required to assist the referring party. This expertise could involve:

- Assistance with determining the correct treatment of items on a tax return.
- Valuation assistance, including an appraisal of tangible property or valuation of a business interest or intangible property.
- Other assistance, including technical engineering or scientific knowledge or expertise as may benefit the specific case.

4. The Engineer Team Manager will review all written reports, both Issue Narratives and Expert Reports, before they are submitted to the requestor. If not included in an electronic issue management system, reports may be transmitted using Form 3213.

**4.48.1.5 (05-01-2006)**  
**Referrals - Requests for Engineering and Valuation Services**

1. Examining agents and attorneys will refer returns and claims for refund that meet the mandatory referral criteria. The agent or attorney should make the referral when the case is opened (usually at the time the case is changed to Status 12). The criteria for mandatory Engineering referrals are:

- LMSB Cases activity codes 221, 223, 225, and 290
- LMSB Cases activity code 483 and gross receipts or gross deductions greater than \$1 million

Although not identified as mandatory referrals on SRS, Engineering recommends that referrals be made when the case meets the following criteria:

- Form 709, 706 Estate and Gift returns with total tax of \$1 million or more
- Form 1065 partnerships and joint ventures with assets greater than \$10 million
- Any return with a valuation issue greater than \$500,000 including non-cash contributions
- Casualty and theft losses greater than \$500,000

2. The Engineering Program encourages referrals. Returns not requiring mandatory referrals may be referred if Engineering assistance is appropriate. Examiners should make referrals as early as possible upon identification of an Engineering issue. Informal Engineering assistance is available to determine if a referral should be made. Informal assistance may not be used in lieu of mandatory referral requirements. Examiners may not cite informal assistance as authority for adjustments. Engineers may spend up to eight hours for consultation on a specific case.

3. See IRM 4.48.2, Valuation Assistance for Cases Involving Works of Art, for referral procedures to request art valuation assistance. Send referrals directly to the National Office Art Appraisal Section of Appraisal Services.

4. The Specialist Referral System (SRS) is the preferred method for making referrals for Engineering services. The recipient of the referral is usually the local Engineer Team Manager. If a post of duty has more than one Engineer Team Manager, the Engineering Territory Manager may determine the recipient.

5. Recognizing that the input screen for the Specialist Referral System may be modified periodically, the following list identifies the specific information needed by the Engineer Team Manager to assign a case:

- A. Requestor's name, title, address, and e-mail address
- B. Phone numbers for requestor, both office and on site, if applicable
- C. Team number and Territory
- D. Operating division and, if applicable, industry
- E. Requestor's manager, manager phone number, and e-mail address
- F. Taxpayer's name, address and TIN or SSN
- G. Type of Taxpayer, for example, CIC, IC, Estate, Gift, etc.
- H. Tax year(s) under examination
  - I. The six digit activity code
  - J. Gross receipts, if applicable
  - K. Type of return(s) in the referral
  - L. Master File Tax code (MFT)
  - M. Principal Industry Activity Code (PIA), or
  - N. North American Industry Classification System code (NAICS), or
  - O. Standard Industrial Classification Code (SIC)
- P. Date case status changed to Status 12
- Q. Requestor's start date
- R. Requestor's estimated closing date
- S. Statute date(s)
- T. Priority designations, for example, TCMP, Joint Committee, Claims, etc.

6. Generally, all CIC referrals will be automatically assigned to one or more Engineers who will perform Risk Analyses and, if appropriate, prepare Audit Plans for submission to the CIC Team. The Engineer Team Manager will evaluate IC referrals and requests for assistance from other divisions or organizations before the requests are assigned to an Engineer. Engineering may request additional information in order to complete the evaluation. Further, some or all of the following information may be necessary before the Engineer Team Manager can concur that no Engineering assistance is necessary:

- A. Copy of the face of the return
- B. Copies of the balance sheet, Schedule M-1, Schedule M-2, and Schedule M-3
- C. Schedules of depreciation, depletion, contributions, gains/losses, "other deductions", or credits
- D. Copies of other relevant forms such as Form 8594 or 8283
- E. A brief narrative explaining the need for which assistance is requested
- F. Nature of business
- G. Location of property
- H. Location of books and records
- I. Source of referral if not from LMSB
- J. Copies of appraisals, sales documents, leases, etc.

7. Within 15 calendar days of receipt of the referral, the Engineer Team Manager will inform the requestor that the referral was received. The Engineer Team Manager will assign or reject the referral as soon as practical with the goal of 15 calendar days or less. For non-CIC referrals, additional material may be necessary for the Engineer Team Manager to make an informed decision about the referral. If the additional information is not received timely, the Engineer Team Manager may assign an Engineer to the referral in order to meet the SRS 30-day assignment requirement.

8. Engineer Team Managers are responsible for locating the most appropriate resources for each referral. This resource could be a local Engineer, an Engineer at another location, an outside expert, or a combination of these options. The Engineering Program maintains a database of Engineering expertise to assist Engineer Team Managers in locating appropriate personnel for specific referrals.

9. The referring examiner should assist the assigned Engineer in obtaining necessary data or records from the taxpayer and other sources. See IRM 4.46.3.7, Management of Specialists for information on the special procedures for participating in CIC examinations as members of the CIC team.

#### **4.48.1.6 (05-01-2006) Examination of Returns**

1. In deciding the extent in which to pursue the examination, the Engineer must participate in a planning process with the referring agent/attorney or with the audit team. The factors considered must meet the requirements of applicable law, regulations, and IRS policy (see IRM 4.10 Examination of Returns and IRM 4.46, LMSB Guide for Quality Examinations).
2. Communication, teamwork, and documentation are essential. The Engineer will communicate on a regular basis with other team members and with the taxpayer. The Engineer will document inactivity on a case for 30 days or more. The Engineer workpapers will contain the necessary documentation of the examination work performed. The Engineer will follow all relevant procedures for third party contacts. The Engineer will seek mutual agreement with the audit team on total planned examination time and starting and completion dates.

#### **4.48.1.6.1 (05-01-2006) Pre-Examination Analysis**

1. After receiving the case assignment, the Engineer will perform a Risk Analysis with the referring agent/attorney or CIC Team (IRM 4.46.3). The Engineer will conduct and document the Risk Analysis regardless of the type of examination or source of referral. Unless specifically prohibited, examinations performed through LMSB initiatives (such as cycle time initiatives) will require Risk Analyses. The process will be revisited at a point when approximately 50 percent of the planned hours have been charged to the case. During the review of the examination at the 50 percent point, the potential benefits will be reassessed as described below. After the reassessment, the scope of the examination of the issue(s) may be expanded or reduced. The Engineer Team Manager will review and approve the Risk Analysis.
2. A large, unusual, or questionable (LUQ) item will depend on the Engineer's perception of the return as a whole and the separate items that comprise the return. Some factors to be considered when identifying these items are:
  - Comparative size of the item
  - Absolute size of the item
  - Inherent character of the item
  - Evidence of intent to mislead
  - Beneficial tax effect due to the manner in which an item is reported
  - Relationship to other items
  - Whipsaw issues
  - Automatic adjustments
  - Missing items
3. Regardless of the type or class of return, the Engineer should first review the return in its entirety. This review should include the line items and credits claimed. Balance sheets, elections, schedules, or any other documents attached to the return are included in the review. The review also should include any relevant items from other sources.
4. The Engineer should compare the potential benefits from examining a return to the resources required to perform the examination. After the potential benefits and resources are considered, the Engineer will rank the issues in priority order. Generally, the Engineer will examine the issues with higher audit potential before those with lower potential. The Engineer Team Manager may request the Engineer to reprioritize based on other factors.
5. The Engineer should review all large, unusual, and questionable items. However, the Engineer cannot examine every possible issue. For instance, it is not proper for the Engineer to make a detailed analysis, unless the potential adjustments will materially affect the tax liability or will be important from a compliance viewpoint. The Engineer is expected to adequately explain both examined items and the large, unusual, or questionable items that are accepted without examination. The case file and workpapers will clearly indicate the scope of every examination, the depth of the examination, and the reasons for the decisions.
6. The Audit Plan should contain a description of the issue(s), reasons for the examination of the issue(s), estimated completion date, and planned hours to complete the examination. The Engineer Team Manager will approve the Audit Plan prior to submission to the referring agent/attorney or CIC Team.
7. The scope of the examination may be expanded or limited during the examination based on the facts of the issue. For more information concerning Risk Analysis, (See IRM 4.10.2.4.1, Risk Analysis).

**4.48.1.6.2 (05-01-2006)****Initial Contact/Interview with Taxpayer**

1. The following should be considered during the initial contact/interview with the taxpayer:
  - A. Arrange initial meeting with the taxpayer or representative
  - B. Discuss potential issues, potential adjustments, and audit techniques with the taxpayer
  - C. Explain the roles of the Engineer Team Manager and Engineering Territory Manager
  - D. Exchange expectations
  - E. Discuss time lines
  - F. Arrange inspections or tours, if needed
  - G. Issue initial Information Document Requests (IDR) for records, information, interviews, and site inspections
  - H. Communicate openly with the taxpayer throughout the examination with a focus on resolving the issues

**4.48.1.6.3 (05-01-2006)****Requesting Information from Taxpayer**

1. Written requests should be in the form of an Information Document Request (IDR). The Engineer should know the requirements of the Team Coordinator or referring agent for preparing and tracking IDR's. The Engineer will offer to meet with the taxpayer or taxpayer's representative to discuss the IDR before it is formally presented to the taxpayer.
2. When requesting information, the Engineer should:
  - A. Consider the relevance and reasonableness of the information requested
  - B. Establish mutually agreeable response dates for individual items if not established in an Examination Plan with the taxpayer
  - C. Establish priorities
  - D. Determine taxpayer's terminology prior to written request
  - E. State the purpose of the request
  - F. Limit the number of items on each IDR
  - G. Timely follow-up on unfilled IDR's
  - H. Timely review adequacy of IDR responses
  - I. Follow CIC Audit Plan Guidelines

**4.48.1.6.4 (05-01-2006)**  
**Quality Factual Development**

1. Quality factual development should be the foundation of the Engineer's work. The extent of factual development depends on the relative potential of the issue. Factual development may include reviewing:

- IDR responses and follow-up IDR's, if needed
- Taxpayer records
- Tax returns and supporting tax workpapers
- Related returns and entities
- Public documents (such as Form 10K)
- Financial statements
- Books and records (i.e., fixed asset ledger, chart of account, etc.)
- Schedules (i.e., depreciation, depletion, etc.)
- Funding requests for capital projects and major repairs
- Source documents (i.e., leases, rent rolls, etc.)

2. The Engineer may tour the taxpayer's plant, laboratory, or other facilities and hold meetings with:

- Taxpayer's staff
- Other team members
- Industry and issue specialists
- Outside consultants
- Counsel

3. The Engineer should conduct research, including the following sources:

- A. Internal Revenue Code and Regulations
- B. Court cases
- C. Third party contacts
- D. Public records
- E. Federal and state filings
- F. Internet information
- G. Professional papers and industry groups
- H. Industry periodicals and articles
- I. Bulletin boards
- J. Commercial databases

4. Additional actions may include:

- A. Early involvement of Counsel, if appropriate
- B. Discussions of potential issues with examiner
- C. Confirmation of facts and discussions of findings with taxpayer

5. The Engineer should analyze the information gathered, based on established methodologies and procedures, in a logical and scientific manner to provide reliable determinations that are well-supported and documented.

6. Reevaluate the time utilization and the need to continue the examination as issue potential is refined through the development of facts during the examination.

7. Share findings with the taxpayer with the objective of early issue resolution.

**4.48.1.7 (05-01-2006)**  
**Workpapers**

1. Workpapers are the written records kept by the Engineer that provide the principal support for the Engineer's report and document the procedures applied, tests performed, information obtained, and the conclusions reached in the examination. They should include all the information necessary to conduct the examination and support the audit results (See IRM 4.10.9, Workpapers).

2. Workpapers created by the Engineer must include a header with the following information:

- Taxpayer's name
- Tax return years examined
- SAIN (IRM 4.46.6, Workpapers and Reports Resources)
- Examiner's name or initials

- Date workpaper was prepared
3. Workpapers created by the Engineer must include footers with an indexed page number. The SAIN may be placed in the footer if directed by the examination plan.
  4. Workpapers created by the Engineer for non-LMSB cases may substitute a description of the issue in place of the SAIN.
  5. Workpapers will be bound or fastened and labeled. The binding or fastening and labeling will follow the procedures in the examination plan as appropriate.
  6. The case file should be a quality product. A quality product includes:
    - A. Indexing all supporting notes to the lead sheet
    - B. Ensuring that handwritten notes are legible
    - C. Dating the workpapers for the day the work was completed
    - D. Cross-referencing workpapers to the activity record
    - E. Including all relevant information gathered during the examination as workpapers
  7. The Engineer workpaper file will be indexed and referenced using tabs. All workpapers will have a workpaper reference number running sequentially on respective Primary Tabs. The Primary Tabs described in the workpaper Table of Contents (see Exhibit 4.48.1-1) will be used to assure consistency and visibility of the audit trail. The Case Administration Tabs will be "A" through "I." Issue Lead Sheets (see Exhibit 4.48.1-2) will be tabbed "A" through "I". Segregation of workpapers by Secondary Tabs can also be used as necessary to fit the special needs of the case. If appropriate, Sub-Issue Lead Sheets may also be included.
  8. Supporting workpapers will document the audit trail. These documents may include photographs, documents provided by the taxpayer, documents from third party sources, and correspondence from the taxpayer.
  9. The Engineer will maintain an activity record on the assigned case. The activity record will document actions taken on the case (IRM 4.10.9.3.1, Activity Records). Documentation should include:
    - Work performed
    - Research activities
    - Date of tour or inspection of taxpayer facilities
    - Date, time, and brief summary of telephone conversations
    - References to notes of meetings with taxpayer, representatives, and third parties
    - Causes for any delays in the examination
    - Notations by the Engineer Team Manager to document involvement in the examination
  10. Where applicable, the entry in the activity record should reference the respective meeting notes, notes of telephone conversations, workpapers, or other items contained in the indexed workpapers.
  11. If the case or an issue in the case is reassigned to another Engineer, transmit the workpaper file or relevant portions to the new Engineer, using Form 3210 or other established procedures.
  12. After review of the Engineer workpaper file, the Engineer Team Manager will transmit the file to the referring agent, attorney, or Team Manager using Form 3210 or other established procedures.

#### **4.48.1.8 (05-01-2006)**

##### **Issue Resolution**

1. The objective is to resolve the issue as early as possible. Credible and competent work by the Engineer will facilitate resolution of issues without litigation. Determine who has authority to resolve issues within the taxpayer's organization. Discuss issues with the examiner or Industry Team Manager prior to presenting findings to the taxpayer. Engineer Team Managers will ensure that all necessary steps are taken to resolve the issues where possible. The Engineer Team Manager will elevate the issue to the Engineer Territory Manager when appropriate.
2. Resolution of valuation issues includes:
  - A. Communicating a clear understanding of the taxpayer's legal and factual arguments
  - B. Explaining to the taxpayer why their value is incorrect or unsupportable
  - C. Considering the acceptable range of values for resolution purposes
  - D. Proposing the value to the taxpayer that is the most probable and supportable
3. Resolution of non-valuation issues should be addressed by:
  - A. Communicating a clear understanding of the taxpayer's legal and factual arguments
  - B. Attempting to reach agreement on the facts
  - C. Attempting to reach agreement on the applicable law

#### **4.48.1.9 (05-01-2006)**

##### **Types of Reports**

1. Upon the completion of an assignment, the Engineer will promptly prepare and submit a report of findings and recommendations to the assigning Engineer Team Manager for review and approval. The Engineer Team Manager will review and approve the report before forwarding the report to the requesting examiner. When writing the report, the Engineer should clearly indicate the basis for the recommended adjustment. Place emphasis on:
  - A. Defining the issue

- B. Developing the facts accurately
  - C. Rebutting the taxpayer's position
  - D. Avoiding lengthy discussions of case law and legal arguments
  - E. Writing in a business style using the first person
  - F. Eliminating technical language or jargon wherever possible
2. The Engineer Report is the ultimate work product of the Engineer's involvement on a case. In most cases, the Engineer's findings and recommendations will be an issue narrative. All reports must be reviewed and approved (or signed) by the Engineer Team Manager before they are provided to the requestor. Engineering reports will be one of the following:
- A. Issue Narrative prepared on Form 5701 - Non-valuation issues worked for LMSB requestors will be prepared using this method. Non-valuation issues worked for non-LMSB requestors may be presented on a Form 5701 or other format as appropriate.
  - B. Reports for Estate and Gift - If the narrative is intended for and expected to be read by the taxpayer, use the standard template for Form 886-A. If the narrative is prepared for use by the ETA only, the communication may be in memo format. If the narrative is contained in a memo format, all of the headings described in IRM 4.48.1.9.1(2) must be included in the memo.
  - C. Expert Report - An expert report is a report of findings that would be suitable for submission to a court. Expert reports should not contain discussions of case law, or the Court will disqualify the report. The most common type of expert report is an appraisal or valuation. Expert reports may be prepared for non-valuation issues when appropriate. For LMSB referrals, attach the expert report to Form 5701 for transmittal to the referring agent.
  - D. Other - The Engagement Letter between Engineering and Estate and Gift may specify another format. Similarly, Counsel or Appeals may request written statements in another format.

**4.48.1.9.1 (05-01-2006)****Issue Narratives**

1. The issue narrative will be developed according to the guidelines found in IRM 4.46.6. Each proposed issue will be developed and presented to the taxpayer on a Form 5701. Every Form 5701 must be reviewed and approved (or signed) by the Engineer Team Manager before it is presented to the Team Coordinator, Industry Team Manager, or revenue agent. A Table of Contents will be included if it is appropriate or necessary in the judgment of the Engineer Team Manager. If the Narrative has exhibits, a List of Exhibits will follow the Conclusion.
2. The content will follow this format:
  - A. Title (Issue)
  - B. Facts
  - C. Applicable Law
  - D. Taxpayer's Position
  - E. Argument
  - F. Conclusion
3. The first section, Title, will frame the issue with a brief conclusion of the results of the examination. The issue statement will identify the dollars, the year(s) at issue, the code section and the specific issue being addressed. The context of everything that follows in the narrative on this issue should focus on this commentary. The Title should clearly and briefly state a question followed by an answer. For example:  
Is Taxpayer, Inc., entitled to deduct \$80X in 2001 and \$75X in 2002 for depreciation under Section 168 (MACRS) of the Internal Revenue Code? No. The correct amounts are \$65X in 2001 and \$60X in 2002 because Taxpayer, Inc., incorrectly included costs attributable to land and buildings as personal property.
4. The next section discusses the Facts of the issue. State the facts of the case as those facts affect the outcome of the issue. In addition, a brief description of the taxpayer's business may help a reader understand the context of the issue. The purpose of an examination is to correctly apply the law to the facts. Do not discuss factual materials that are not relevant to the issue. Following are examples of appropriate presentations of facts:
  - A. Taxpayer, Inc. was formed in 1984 to manufacture widgets for sale to manufacturers of jet engines for military aircraft. In 1999, Taxpayer, Inc. constructed a new headquarters building and an adjacent research facility.
  - B. The research facility contains electrical power to maintain the building as well as to operate machinery and test equipment within the laboratories. The concrete surfaces were coated with urethane paints to provide. . .
  - C. At the south end of the lab an overhead crane is used to . . . The crane weighs 16 ton, and can support a load of 50 tons. To provide support for this weight the sidewalls were reinforced using . . . at a cost of \$x .
5. The discussion of Applicable Law will contain the Commissioner's position as established by Treasury Regulations, the Internal Revenue Code, Revenue Rulings, and Revenue Procedures. Technical Advice, Field Service Advice, Private Letter Rulings, and other similar publications may not be included unless the document is specific to the taxpayer and the issue under examination. Specific case citations may be used if the examiner uses the citations to apply the Code or Regulations. Lengthy quotations of the Code, Regulations, or cited cases are not relevant or helpful and will not be included in this section.
6. The next section is titled "Taxpayer's Position". The purpose of this section is to explain why the taxpayer believes their position with respect to the issue is correct. For example, in this hypothetical lab described above, the taxpayer believes that 100 percent of the cost of the walls of the building should be associated with the crane. They cite Case 1, Case 2 and Case 3 to support their position. If the taxpayer will not provide a clear explanation of their position, this section will include a discussion of the steps taken to obtain the information from the taxpayer.
7. The "Argument" section answers the Taxpayer's Position. The Engineer's position should be persuasive in nature and tie together the facts and law without reiterating the law. There should be enough information to tell a story. The narrative will be well organized. The purpose is to explain the disagreement with the taxpayer and provide the specific reasons for the proposed adjustment. One of the purposes of this section is to provide the Engineer's response to the Taxpayer's position. Comments should be objective and professional. A personal denigration or attack on the taxpayer or the taxpayer's expert will demonstrate bias to the reader. If the reader perceives bias, the credibility of the arguments is substantially reduced. If technical information is necessary, use a plain English explanation of the item in the narrative. Use footnotes to describe or define technical terms.
8. Conclusion - The Conclusion briefly summarizes the results of the examination and the reasons for the proposed adjustment.
9. Write the issue narrative using prescribed standards for grammar, wording, references, quotations, and other style elements. The style of writing will be a business style. Compose the narrative in the first person. The approved Engineering Program writing style manual will be the authority for the English composition aspects of the narrative.

**4.48.1.9.2 (05-01-2006)**  
**Expert Report**

1. Report the results of appraisals of properties or valuations of interests using professional appraisal or valuation report standards. If the appraiser or valuator is certified, the report will comply with the requirements of the certifying organization. Otherwise, the report will comply with the appropriate valuation guidelines contained in IRM 4.48.3 through 4.48.6.
2. Expert reports may be prepared for non-valuation issues as necessary or as requested.
3. Appeals or Counsel may request an Engineer to prepare an Expert Report in preparation for litigation. As with any other written work product, the Engineer Team Manager will review and approve the Expert Report prior to submission to the requestor. This step is necessary to insure that the Expert Report is technically accurate and is consistent with policy and procedures. This report may be presented to the Court as an Expert Witness Report. Generally, the Expert Report must present the facts. It must be free of subjectivity and unfounded opinion. The Expert Report must not advocate any interpretation of the facts as they may apply to the law or any application of the law. If the Engineer is certified, the report should conform to the specifications or requirements of the certifying organization. It is the responsibility of the Engineer to provide the best service to the requesting client by ensuring that the Expert Report complies with the Federal Rules of Evidence, Article VII.

**4.48.1.10 (05-01-2006)**  
**Training**

1. The Engineering Training Program is a comprehensive program designed to provide training for the newly hired Engineer through the senior level Engineer. Mandatory recruit training (Phases 1 through 6) includes both in-house training and out-service training. This program consists of:
  - A. Orientation
  - B. Classroom instruction
  - C. Self-instruction material
  - D. Out-service-training
  - E. Exhibit 4.48.1-3 through 5 contains a schedule of training for new hires through Phase 6. These classes should begin within 3 weeks of hiring the new recruits.
2. After completing mandatory recruit training, more advanced and specialized training is available as shown in Exhibit 4.48.1-6.
3. External training courses are available from several sources. An approved SF 182, Request, Authorization, Agreement, and Certificate of Training, is needed before external training may begin. This is not a complete list of sources:
  - A. American Institute of Mining Engineering
  - B. American Petroleum Institute
  - C. American Society of Appraisers
  - D. Appraisal Institute
  - E. Colorado School of Mines
  - F. NACVA
  - G. Society of Petroleum Engineer (SPE)
4. Internal Education Courses are available from the sources below. Approval from the Engineer Team Manager is needed before the courses are to begin.
  - A. Enterprise Learning and Management System (ELMS)
  - B. Core Learning & Education Division
  - C. School of Information Technology
  - D. SkillSoft
  - E. IVT (Interactive Video Teleconference)
  - F. Division of Education and Learning
5. Engineer Manager training is shown on Exhibit 4.48.1-7.

**Exhibit 4.48.1-1 (05-01-2006)**  
**Workpaper Table of Contents**

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**Exhibit 4.48.1-2 (05-01-2006)**  
**Issue Lead Sheet I**

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**Exhibit 4.48.1-3 (05-01-2006)**  
**Recruit Training**

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**Exhibit 4.48.1-4 (05-01-2006)**  
**Phase I**

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**Exhibit 4.48.1-5 (05-01-2006)**  
**Phase II**

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**Exhibit 4.48.1-6 (05-01-2006)**  
**Phase III**

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**Exhibit 4.48.1-7 (05-01-2006)**  
**Engineering Manager Training**

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